Supreme Court, U.S.
FILED

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No.____

In The
Supreme Court of the United States
October Term, 1999

KEITH ROBERTSON, CHRISTINE ROBERTSON &
KEVIN ROBERTSON

Petitioners, Pro Se

v.

COMPTROLLER OF TREASURY

Respondent.

On Petition For Writ Of Certiorari
To The Court Of Appeals of Maryland

PETITION FOR WRIT OF CERTIORARI

Keith Robertson
Chrisitne M. Robertson
Kevin Robertson
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QUESTIONS PRESENTED FOR REVIEW

As to Keith & Christine Robertson-

Did the Maryland Court of Appeals turned a blind eye to the laws of its' own state when they denied our Writ of Certiorari?

As to Kevin Robertson-

Does the Maryland Court of Appeals have a right to use the phrase 'not desirable and in the public interest' to deny our case to be heard in a court of law?

As to Both-

Buy denying the petitioners Writ of Certiorari, did the Maryland-Court of Appeals violate the petitioners 5th&14th amendment rights of the United States Constitution as will as artical6 of the same Constitution?

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PETITION FOR WRIT OF CERTIORARI

Petitioners pray that a writ of certiorari be issued to review the decision of the Court of Appeals of Maryland entered in this consolidated case (a) to decide an important issue of due process of law that has not been,but should be,decided by the Supreme Court of the United States and (b) to exercise this Court's power to over turn the Maryland Court of appeals decision.

OPINIONS BELOW

The opinion of the Court of Appeals of Maryland that gives rise to this Petition was entered on May 14, 1999 in which the petitioners writ of certiorari was denied.

JURISDICTION

The jurisdiction of this Court is invoked pursuant to 28 USC section 1251,n 1

STATUTORY PROVISIONS AND RULES

Maryland Tax General Section 3-103
Maryland Rule 2-323(e)

STATEMENT OF THE CASE

On February 22,1999 a Writ of Certiorari was sent to the Court of Appeals for Maryland after the Circuit Court for Baltimore City denied the petitioners a trial, based on the District Court for Baltimore City decision, that we, the petitioners had not Exhausted Our Administrative Remedies in the Maryland Tax Court. In our Writ of Certiorari we stated that the Maryland Tax General section 3-103 clearly states that the Maryland Tax Court has power over property tax assessment only.No where in the Maryland Tax General or the Maryland Constitution does it give the Maryland Tax Court judical power to proceed over court cases dealing with it Citizens or income tax. The Maryland Tax Court has no judical power and is not recognised by the Maryland Constitution as one of its' enumerated judical courts (*Shell Oil Co. v. Supervisor of Assmts.*,276 Md.44,343 A.2d 521(1975) & Art.IV,section 1 of the Maryland Constitution.).

On Nov 8, 1938 in the Maryland Manual page 328. The General Assembly tried to Amend article XV of the Maryland Constitution to enact a State income tax.This amendment was voted down by the Citizens of Maryland. The Maryland Declaration of Rights article 1 &The United States Supreme Court case (*M'Culloch v.The State of Maryland et al 1819*) supports the Citizens of Maryland right to reject that amendment.

On May 14,1999. The Court of Appeals for Maryland issue in order denying the petitioners Writ of Certiorari.Although no laws or Constitutional provision was sited to disprove or rebut the petitioner statments of facts. The Court of Appeals for Maryland reason for denying the petitioners certiorari was that it was not in the "desirable and in the public interest."This phrase has been deemed unlawful by the United States Supreme Court case (*Washington Market Co.v. Hoffman,101U.S.112,115:) & (U.S.v. MissouriPacR.Co.,278U.S. 269*) "We are therefore bound by the words employed and are not at liberty to conjure up conditions to raise doubts in order that resort may be had to construction. It is elementary that, where no ambiguity exists, there is no room for construction.Inconvenience or hard ships,if any, that result from following statute as written,must be relieved by legislation."

On June 8, 1999 a Injunction Pending Appeal of Decision was sent to the Court of Appeals of Maryland . This was followed by a response from the Comptroller of Treasury which prompt us to amend our orginal injunction .

On June 21,1999 the Court of Appeals of Maryland denied our Injunction. Again the Court of Appeals of Maryland offer no rebuttal to the petitioners Injunction,this is a clear violation of Maryland Rule 2-323(e).(see App.14)

REASONS FOR GRANTING THE WRIT

I. The Maryland Court of Appeals has already made a decision on a similar case which they over turn the lower court decision and grant a writ to allow the petitoner case to be hear in a court of law and not a Tax Court.(Shell Oil Co. v. Supervisor of Assmts...).

II. The Supreme Court of the United States has already ruled that the phrase "desirable and in the public interest" cannot be used to ignor the laws and statute that are written (U.S. v. Missouri Pac R.Co...).

III. Buy denying the petitioners Writ of Certiorari the Maryland Court of Appeals violates the petioners 5th & 14th amendment rights of the United States Constitution as well as article 6 of the same Constitution.

CONCLUSION

WHEREFORE, Petitioners respectfully pray that this Court will issue a Writ of Certiorari to the Court of Appeals of Maryland.

Respectfully submitted,

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(410) 448-2879

APP. 1

Maryland Tax-General

Title 3.

Maryland Tax Court.

Section 3-103. Jurisdiction.

(a) In general.- The Tax Court has jurisdiction to hear appeals from the final decision, final determination, or final order of a property tax assessment appeal board or any other unit of the State government or of a political subdivision of the State that is authorized to make the final decision or determination or issue the final order about any tax issue...

The above-discussed principles are not disputed by Shell in this case .Shell's position, however, is that the Maryland Tax Court exercises a judical or "adjudicative"function,that it"has none of the execu tive or quasi-legislative functions imposed upon the State administra tive bodies," and that the "proceedings of the Tax Court are,in all essential respects,equivalent to those of a court of law." Shell argues, relying upon *Pope v. United States*, 323 U.S. 1,65 S. Ct 16,89 L.Ed. 3 (1944), That the constitutional "status" of the Maryland Tax Court should be not be controlling.Instead, Shell's argument continues, we have jurisdiction to review Tax Court cases "because of the judical' character of the decision appealed from."

There are many respects in which the Maryland Tax Court lacks the characteristics normally associated with an entity exercising judicial authority. However, regardless of this, the Tax Court cannot be deemed to exercise initial judicial authorty for a more fundamentalreason.Under the Maryland ConstitutionUnlike the Federal Constitution, the judicial function may be exercised only by those courts enu merated in the Constitution.with the exception of the express authorization to create intermedate courts of appeal, the General Assembly of Maryland, unlike the Congress, is not empowered to create additional"courts"to exercise judicial power.

That judicial power of the State of Maryland is vested only in those courts enumerated by the Maryland Constitution is made clear by Art.IV, section 1:

"In this State, all Judicial authorty is only such as is provided for by Article 4 of the Maryland Constitution, and it has been decided that only judicial functions can be exercised which find thier authority in that Article..., and that no court not coming within its provisions can be established in this State. This forbids any power in Legislature to clothe administrative boards with any judicial authority. there may be states in which it can be done,but Maryland is not one of them"...

CONSTITUTION OF MARYLAND

ARTICLE IV.

JUDICIARY DEPARTMENT

Part I-General Provisions.

SECTION 1. The Judicial power of this State is vested in a Court of Appeals,such intermediate courts of appeal as the General Assembly may create by law,Circuit Courts,Orphans'Courts, and a District Court. These Courts shall be Courts of Records,and each shall have a seal to be used in the authentication of all process issuing from it.

MARYLAND MANUAL
(1938 PAGE 328)

CONSTITUTIONAL AMENDMENT
(Chapter 525 - 1937)

Amendment to Article XV of the Declaration of Rights of the State Constitution authorizing the General Assembly to enact a State income tax, which may be classified, graduated and progressive and which may provide exemption of a reasonable amount of income from taxation.

Counties and Baltimore City	*For Constitutional Amendment*	*Against Constitutional Amendment*
Allegany	4,054	5,083
Anne Arundel	3,454	3,824
Baltimore	17,597	17,877
Calvert	514	372
Caroline	944	978
Carroll	2,246	2,419
Cecil	1,881	2,639
Charles	421	299
Dorchester	711	1,122
Frederick	3,045	4,144
Garrett	600	1,610
Harford	2,441	1,854
Howard	1,892	1,040
Kent	810	1.252
Montgomery	5,891	4,905
Prince George's	4,968	3,894
Queen Anne.s	830	653
St. Mary's	427	312
Somerset	449	574
Talbot	888	1,098
Washington	2,888	5,115
Wicomico	989	1,487
Worcester	529	924
Baltimore City	31,093	35,839

1-6 legislative Dist. Totals	79,562	99,314

It would be difficult to sustain this proposition. The Convention which framed the constitution was indeed elected by the State legislatures. But the instrument, when it came from there hands, was a mere proposal, without obligation, or pretensions to it. It was reported to the then existing Congress of the United States, with a request that it might "be submitted to a Convention of Delegates,chosen in each State by the people thereof,under the recommendation of its legislature, for their assent and ratification." This mode of proceeding was adopted;and by the Convention,by Congress,and by the State legislatures,the instrument was submitted to the people. They acted upon it in the only manner in which they can act safely, effectively, and wisely,on such a subject,by assembling in Convention...

CONSTITUTION OF MARYLAND

DECLARATION OF RIGHTS

Article 1. That all Government of right originates from the people, is foaned in compact only, and instituted solely for the good of the whole; and they have,at all times,the inalienable right to alter,reform or abolish thier Form of Government in such manner as they may deem expedient.

KEITH & CHRISTINE ROBERTSON

Petitioners,Pro Se

v.

COMPTROLLER OF TREASURY

&

KEVIN ROBERTSON

v.

COMPTROLLER OF TREASURY

IN THE COURT OF APPEALS OF MARYLAND

Petition Docket No.712

INJUNCTION PENDING APPEAL OF DECISION

On February 22,1999 a Writ of Certiorari was sent to the Court of Appeals for Maryland after the Circuit Court for Baltimore City denied the petitioners a trial, based on the District Court for Baltimore City decision, that we, the petitioners had not Exhausted Our Administrative Remedies in the Maryland Tax Court.

In our Writ of Certiorari we stated that the Maryland Tax General section 3-103 clearly states that the Maryland Tax Court has power over property tax assessment only. No where in the Maryland Tax General or the Maryland Constitution does it gives the Maryland Tax Court judical power to proceed over court cases dealing with it's Citizens or income tax. The Maryland Tax Court has no judical power and is not recognized by the Maryland Consitution as one of its' enumerated judical courts(Shell Oil Co. v.Supervisor of Assmts., 276 Md.44,343 A.2d 521(1975) & Art.IV,section 1 of the Maryland Constitution.).(see Exhibits A.).

Although this was not mentioned in the Writ of Certiorari this information is still improtant to this case. On Nov 8, 1938 in the Mary land Manual page 328.The General Assembly tried to Amend article XV of the Maryland Consitution to enact a State income tax.This amendment was voted down by the Citizens of Maryland.The Mary land Declaration of Rights artical 1 & The United States Supreme Court case (M'Culloch v.The State of Maryland et al 1819) supports

the Citizens of Maryland right to reject that amendment. (see Exhibits B.).

On May 14,1999. The Court of Appeals for Maryland issue in order denying the petitioners Writ of Certiorari. Although no laws or Constitutional provision was sited to disprove or rebut the petitioners statments of facts.The Court of Appeals for Maryland reason for denying the petitioners certiorari was that it was not in the desirable and in the public interest. This phrase has been deemed unlawful by the United States Supreme Court case (Washington Market Co. v. Hoffman, 101 U.S. 112,115:) & (U.S. v. Missouri Pac R.Co., 278 U.S.269) "We are therefore bound by the words employed and are not at liberty to conjure up conditions to raise doubts in order that re sort may be had to construction. It is elementary that, where no ambiguity exists, there is no room for construction. Inconvenience or hardships,if any, that result from following statute as written,must be relieved by legislation."

On June 8, 1999 a Injunction Pending Appeal of Decision was sent to the Court of Appeal of Maryland . This was followed by a response from the Comptroller of Treasury which prompt us to amend our orginal injunction .(see Exhibits C)

On June21,1999 the Court of Appeals of Maryland denied our Injunction. Again the Court of Appeals of Maryland offer no rebuttal to the petitioners Injunction, this is a clear violation of Maryland Rule 2-323(e). (see Exhibits C)

Based on the new evidenced we ask the Court of Appeal of Mary land to issue a stay pursuant to Maryland Rule 8-425(f).to the Comp troller of Treasury to stop any an all action to collect damages or penalties including the collections of state income tax , until the United States Supreme Court gives an answers on the petitioners Writ of Certiorari to the United States Supreme Court for the Court of Appeals of Maryland.

KEITH & CHRISTINE ROBERTSON	IN THE CIRCUIT COURT FOR
Appellents	BALTIMORE CITY
V.	
COMPTROLLER OF THE TREASURY	CASE No.24-C-98-410723 AR
Appelle	

SUGGESTION OF MOOTNESS

Now comes the appellee, Comptroller of the Treasury,by J. Joseph Curran, Jr., Attorney General of Maryland, and Gerald Langbaum and John K.Barry,Assistant Attorneys General,and suggests that the "Motion of Injunction Pending Appeal" filed herein by the appellants has been rendered mootby the action of the Court of Appeals of Maryland on May 14,1999,denying the pending petition for writ of certiorari filed by the appellants.

On February3,1999,this Court entered an order affirming a judge ment of the District Court of Maryland for Baltimore City in favor of the Comptroller of the Treasury against the appellants Keith and Christine Robertson. The Robertson then filed a petition for writ of certiorari in the Court of Appeals (Petition Docket no.712,September Term 1998).1 While the petition was pending in the Court of Appeals, the Robertson on or about May 9, 1999,filed thier "Motion of Injunction Pending Appeals." the Comptroller responded to the motion on or about May 11, 1999. The Court of Appeals entered its order denying the petitioner for writ of certiorari on May 14,1999 (Exhibit 2). As there is no longer an appeal pending,the motion for injunction pending appeal has been rendered moot and need not be addressed by this Court.

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1 Acopy of the petition for writ of certiorari is attached as Exhibit 1. The petition was on behalf of Kevin Robertson (appellant in this Court in case no. 24-C-98-410724AR)in addition to Keith and Christine robertson.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of May 1999 a copy of the foregoing Suggestion of Mootness was mailed, postage prepaid to, Keith and Christine M. Robertson, 2869 Forest Road, Baltimore,Maryland 21216, Appellants.

Gerald Langbaum
Assistant Attorney General

KEITH ,CHRISTINE ROBERTSON

KEVIN ROBERTSON

Petitioners

v.

COMPTROLLER OF TREASURY

Respondent

IN THE COURT OF APPEALS MARYLAND

Petition Docket No.712

September Term 1998

AMENDMENT OF INJUNCTION PENDING APPEAL OF DECISION

Pursuant to Maryland Rule 3-341.We the petitioners are amend ing our Injunction to address the question presented by the Comptroller of Treasury.

We the petitioners have already address the question about the Maryland Tax Court but since the issue has been rasied we will once again answer that question.

The Maryland Tax Court has power over property tax assements only (Maryland Tax General secton 3-103), this is supported by the Maryland Constitution Art, 15 and residents (Maryland Tax General section10-101(h)(i)).We are not residents but Citizens of the Maryland Republic.One clear distinction between the two,is that a Citizen can obtain a voters card to vote in the state of Maryland were a resident cannot.We have already proven that the Maryland Tax Court has no judical power over the Citizens of Maryland (Shell Oil Co. v. The Supervisor of Assessment 276 Md, 36-47.).

The Comptroller of Treasury raised another issue that wages are taxable , this is not true. According to the Supreme Court case Lucas v. Earl 281 U.S. 111,113 as well as The Maryland Manual Nov 8, 1938 page 328 Amendment defeat(see orginal Injunction).

The Maryland Constitution Art,15 does not allow the Comptroller of Treasury to Tax's its'Citizens. The Comptroller of Treasury must specifically point on statues levying.taxes. They cannot give there interpretation of them Gould v. Gould 245 U.S. 151. The Maryland Tax General section 10-101(a-1) (1) use Title 26 of the Internal Revenue Code to collect taxes.Therefor the court cases Lucas v Earl & Gould v.Gould do apply to The Comptroller of Treasury.

The Comptroller of Treasury never presented any laws or constitutional provision to denying or rebut any of the adverments raised in the injunction, therefor the Laws of Presumptions stands as fact, Black Laws (6th Ed.) as Follows: A presumption is a rule of law, stautory or judical,by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted . (Van Wart v. Cook Okl.APP.,557 P.2nd 1161,1163). This is supported by Maryland Rule 2-323(e) which states: In pertinent part,Adverments. In a pleading to which a responsive pleading is required,other then those as to the amount of damages, are admitted unless denied in the responsive pleading or cover by a general denial.

Based on the evidence presented against the Comptroller of Treasury we ask the Court of Appeals of Maryland to honor the petitioners Injuction Pending Appeal of Decision and deny Comptro llers Response to Petitioners Injunction.

KEITH ROBERTSON et al.

V.

COMPTROLLER OF THE TREASURY

IN THE COURT OF APPEALS OF MARYLAND

Petition Docket No.712

September Term,1998
(No. 24-C-98-410724AR, Circuit Court for Baltimore City)

ORDER

Upon consideration of the petition for a writ of certiorari to the Circuit Court for Baltimore City, and the answer filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showin that review by certiorari is desirable and in the public interest.

/s/ Roberts M. Bell
Chief Judge

Date: **MAY 14 1999**

KEITH ROBERTSON, et al. Court of Appeals of Maryland

v. Misc. No. 44

COMPTROLLER OF THE TREASURY September Term, 1998

ORDER

The Court having considered the injunction pending appeal of decision, and the response foled thereto, in the above-entitled case, it is this 21st day of June, 1999,

ORDERED, by the Court of Appeals of Maryland, that the injunction pending appeal of decision be, and it is hereby, DENIED.

/s/ROBERT M. BELL
Chief Judge